

Applicant : Perry R. DeYoung
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REMARKS

Claims 1-38 are pending in the present application. In the Office Action, the Examiner has stated that Applicant is required to elect an invention for prosecution between a first set of claims drawn to a dough divider with actuation control structure (Group I); a second set of claims drawn to a dough divider with a specific press plate configuration (Group II); a third set of claims drawn to a dough divider with a specific lid configuration (Group III); a fourth set of claims drawn to a dough divider with a specific knife assembly configuration (Group IV); and a fifth set of claims drawn to a dough divider with a specific latch assembly control structure (Group V).

Applicant elects Group II of the claims with traverse. Group II of the claims is drawn to a dough divider with a press plate as defined in claims 1, 3-8, 10, 14, 17-24, 27, 31 and 33. Furthermore, since claim 34 was not addressed in the Office Action, Applicant assumes that claim 34 belongs in all groups. Additionally, new claims 35-38 belong in Group II because claims 35 and 36 require the specific details of the press plate configuration as claimed in claim 3 and claims 37 and 38 require the specific details of the press plate configuration as claimed in claim 19. Furthermore, as discussed below, claims 11-13, 15, 16, 28-30 and 32 belong in Group II.

The Examiner states that claims 10-13 are in Group IV drawn to a dough divider with a specific knife assembly configuration. The Examiner also states that claim 10 is in Group II as drawn to a dough divider with a specific press plate configuration. Claims 11-13 depend from claim 10. In the Office Action, the Examiner states that the invention of Group IV (i.e., claims 10-13) does not require the specific details of the press plate configuration of Group II for patentability as evidenced by the omission thereof from Group IV. However, claims 11-13 do require the specific details of the press plate configuration of Group II because the press plate configuration as defined in claim 10 is not omitted from claims 11-13. "Claims in dependent form shall be construed to include all the limitations of the claim incorporated by reference and to the dependent claim." 37 C.F.R. §1.75(c). Therefore, claims 11-13, by definition, include the specific details of claim 10. Accordingly, claims 11-13 are not distinct from claim 10 as stated by the Examiner in his reasons for making a restriction requirement.

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Therefore, claims 11-13 should be examined along with claim 10 in Group II.

The Examiner states that claims 27-30 are in Group IV drawn to a dough divider with a specific knife assembly configuration. The Examiner also states that claim 27 is in Group II drawn to a dough divider with a specific press plate configuration. Claims 28-30 depend from claim 27. In the Office Action, the Examiner states that the invention of Group IV (i.e., claims 27-30) does not require the specific details of the press plate configuration of Group II for patentability as evidenced by the omission thereof from Group IV. However, claims 28-30 do require the specific details of the press plate configuration of Group II because the press plate configuration as defined in claim 27 is not omitted from claims 28-30. "Claims in dependent form shall be construed to include all the limitations of the claim incorporated by reference and to the dependent claim." 37 C.F.R. §1.75(c). Therefore, claims 28-30, by definition, include the specific details of claim 27. Accordingly, claims 28-30 are not distinct from claim 10 as stated by the Examiner in his reasons for making a restriction requirement. Therefore, claims 28-30 must be examined along with claim 27 in Group II.

The Examiner states that claims 15 and 16 are in Group V drawn to a dough divider with a specific latch assembly control structure. The Examiner also states that claim 14 is in Group II drawn to a dough divider with a specific press plate configuration. Claims 15 and 16 depend from claim 14. In the Office Action, the Examiner states that the invention of Group V (i.e., claims 15 and 16) does not require the specific details of the press plate configuration of Group II for patentability as evidenced by the omission thereof from Group V. However, claims 15 and 16 do require the specific details of the press plate configuration of Group II because the press plate configuration as defined in claim 14 is not omitted from claims 15 and 16. "Claims in dependent form shall be construed to include all the limitations of the claim incorporated by reference and to the dependent claim." 37 C.F.R. §1.75(c). Therefore, claims 15 and 16, by definition, include the specific details of claim 14. Accordingly, claims 15 and 16 are not distinct from claim 14 as stated by the Examiner in his reasons for making a restriction requirement. Therefore, claims 15 and 16 must be examined along with claim 14 in Group II.

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The Examiner states that claim 32 is in Group V drawn to a dough divider with a specific latch assembly control structure. The Examiner also states that claim 31 is in Group II drawn to a dough divider with a specific press plate configuration. Claim 32 depends from claim 31. In the Office Action, the Examiner states that the invention of Group V (i.e., claim 32) does not require the specific details of the press plate configuration of Group II for patentability as evidenced by the omission thereof from Group IV. However, claim 32 does require the specific details of the press plate configuration of Group II because the press plate configuration as defined in claim 31 is not omitted from claim 32. "Claims in dependent form shall be construed to include all the limitations of the claim incorporated by reference and to the dependent claim." 37 C.F.R. §1.75(c). Therefore, claim 32, by definition, includes the specific details of claim 31. Accordingly, claim 31 is not distinct from claim 31 as stated by the Examiner in his reasons for making a restriction requirement. Therefore, claim 32 must be examined along with claim 31 in Group II.

Applicant's election of Group II therefore requires the Examiner to examine claims 1, 3-8, 10-24 and 27-38. Furthermore, since claims 1 and 18 are generic as stated by the Examiner because "claim 1 recites subject matter that is common to all of the groups" and "[t]he same applies to claim 18," non-elected claims 2, 9, 25 and 26 should be allowed upon allowance of generic claims 1 and 18.

All pending claims 1-38 are believed to be in condition for allowance, and a Notice of Allowability is therefore earnestly solicited.

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Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version With Markings to Show Changes Made."

Respectfully submitted,

PERRY R. DEYOUNG

By: Price, Heneveld, Cooper,
DeWitt & Litton

11/02/01
Date

Marcus P. Dolce
Marcus P. Dolce
Registration No. 46 073
695 Kenmoor, S.E.
Post Office Box 2567
Grand Rapids, Michigan 49501
(616) 949-9610

MPD/msj

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims:

The following new claims have been added.

35. (New) The dough divider of claim 3, further including:
a delay device configured to delay the driving of the press plate towards the lid such that the latch assembly is activated a predetermined amount of time before the press plate is driven towards the lid.
36. (New) The dough divider of claim 3, wherein:
the lid is rotatably connected to the hopper and adapted to compress the dough within the hopper.
37. (New) The dough divider of claim 19, wherein:
the lid is rotatably connected to the hopper and adapted to compress the dough within the hopper in the closed position.
38. (New) The dough divider of claim 37, wherein:
a coil spring connected to the lid automatically rotates the lid to the open position when the latch assembly is deactivated.

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